

Application No. 10/593,664
After Final Office Action of June 11, 2010

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REMARKS

In the Office Action dated June 11, 2010, claims 15-35 are pending and rejected. Reconsideration is requested for at least the reasons discussed hereinbelow.

The above amendment to the specification and claims is submitted to correct a translation error. On page 5 of the PCT specification, the term "gesichert" was erroneously translated and should be translated as "secured." Also on page 12 of the PCT specification, the term "_sicherung" was erroneously translated and should be translated as "security." Copies of pages 5, 12 and second claims page (showing original claim 8) are enclosed for reference to the original German text. Errors in the translation of the pct application may be rectified (cf. PCT applicant's guide, chapter 6, para. 6.002; PCT applicant's guide -- national phase -- national chapter -- US, para. US. 08). Thus, no new matter is added.

Claims 15 and 25 have been amended to make the same correction as made in the translation to the specification. No new matter is added.

Thus, the swimming aid device of the presently claimed invention provides:

- a size-variable element that can be adjusted to the body size and having a first, releasable closure means, whereby the variable body size adjustment can be set,

- at least one buoyancy element, wherein the buoyancy element comprises filling material with buoyant granulates, flocks or beads; and

- a second, releasable closure means that can be released without altering the set body size adjustment of the size-variable element,

- wherein said second, releasable closure means enables the swimming aid device to be put on and taken off conveniently and quickly without altering the body size adjustment of the swimming aid device and comprises a zip with a zip handle and a cover to secure the zip handle.

Therefore, the cover secures the zip handle against accidental opening. None of the cited prior art provide, *inter alia*, security against accidental opening of a zipper on a swimming aid device. Nor do they suggest that such security even be provided.

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Claims 15, 16, 34 and 35 are rejected under 35 U.S.C. §103(a) over Jones (US 3,931,657) in view of Buck (US 5,660,572) and Nedbal et al. (US 7,404,240; "Nedbal"). Jones and Buck were discussed in detail in Applicant's communication filed 19 March 2010. The Examiner admits at least that Jones fails to disclose "the buoyant beads, and a cover for the zipper handle." Buck is cited for a disclosure of "the construction of a PDF from buoyant beads" and Nedbal is cited for a disclosure of "a zipper handle cover."

Jones *fails* to teach or suggest a secure cover as recited in present claim 15. Rather, the zipper-type closure fastener 24 (cf. Fig. 1, col.2, l. 27-32) of the life vest of Jones is not secured by a cover. Thus, Jones **neither provides for, nor suggests the present safety concept.**

The claimed secure cover 25, which is particular effective when **co-acting with a zip** as the second releasable closure means, provides for **protection against accidental opening** of the second closure means and, thus, provides for **improved safety** when swimming (page 6, 2d paragraph and pages 11-12, bridging paragraph), which is important, e.g., for children learning to swim (page 4, 3d and 4th paragraphs).

Furthermore, Jone's cord 23 and grommets 22 do not teach or suggest a first closure means according to the present invention (cf. item 6 of the Office Action, 4th para.) providing for variable body size adjustment. Even if a wearer would try to narrow the lateral opening between front panels 11 and back panels 12 by means of pulling the ring of cord 23 (cf. Figs. 1 and 3), the life vest of Jones would not allow one to set the adjustment of said lateral opening. That is because **no means are provided to fix said ring in order to set the adjustment of said lateral opening** and, thus, the combination of ring and cord 23 is **not designed for body size adjustment.**

Besides, even if the combination cord 23 and grommets 22 would provide for setting the adjustment of the lateral opening, cord 23/grommets 22 would not provide for a variable body size adjustment as recited in present claim 15. The human body is growing both in horizontal

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and in vertical direction. However, the life vest of Jones would be adjustable in horizontal direction only. Hence, Jones also *fails* to provide the present concept for variable body size adjustment.

Neither Buck, nor Nedbal nor their combination make up for the deficiencies in Jones. Neither Buck nor Nedbal teach or suggest secure cover 25 to cooperate with a zipper as the second releasable closure means and provide for protection against accidental opening of the second closure means.

Newly cited Nedbal merely discloses a zipper 10 with a zipper pull comprising a cover member 22 made, for example, of soft material such as plastic or rubber material (see, col. 6, line 52 through col. 7, line 10 and, e.g., Figs. 8 and 9). However, said cover member 22 does not at all represent a cover according to present claim 15 for securing the zip handle against accidental opening. Rather, cover member 22 merely provides for a stable and good receiving and holding property of a zipper pull tab and prevents backlash among respective component parts with each other (col. 2, lines 34-39).

Receiving and holding property of cover member 22 is provided by receptacle 26 for receiving and holding the right and left end surfaces of the pull-tab 21 and receptacle 26a for receiving and holding the right and left end surfaces of the pull-tab 21 and receptacle 26a for receiving and holding at least part of the right and left side surfaces of slider body 15 (col. 8, lines 37-41, Figs. 10 and 11). As to the prevention of backlash and deviation among the component parts, see col. 10, lines 16-27 and Figs 12-14.

Hence, Applicant respectfully submits that the teaching of Nedbal will not provide for a safety concept against accidental opening as set forth in present claim 15.

Claims 16, 34 and 35 are patentable for at least the same reasons as discussed above.

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Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of any combination of Jones, Buck and Nedbal.

Claims 15-18, 21-24, 28, 29 and 32-35 are rejected under 35 U.S.C. §103(a) over Kea (U.S. 5,603,648) in view of Buck and Nedbal. Kea and Buck were discussed in detail in Applicant's communication filed 19 March 2010. The Examiner admits at least that Kea, like Jones, also fails to disclose "the buoyant beads, and a cover for the zipper handle." Buck is cited for a disclosure of "the construction of a PDF from buoyant beads" and Nedbal is cited for a disclosure of "a zipper handle cover."

Neither Buck, nor Nedbal nor their combination make up for the deficiencies in Kea. For example, neither Buck nor Nedbal teach or suggest a secure cover 25 to cooperate with a zipper as the second releasable closure means and provide for protection against accidental opening of the second closure means.

Kea discloses a velcro fastener 19 supplemented by a pair of hook and eye fasteners (cf. col. 3, 1. 19-25; Fig. 2). This concept strongly differs from the swimming aid device according to present claim 15 for the following reasons.

First, a pair of hook and eye fasteners is not a cover as recited in claim 15. Applicant submits that applying a cover to velcro fastener 19 would not secure velcro fastener 19 from opening. A closure means in form of a velcro fastener 19 will much more easily be accidentally opened than a zip, that is one pair of hook and eye fasteners (Figs. 1 and 2) will not prevent accidental opening of velcro fastener 19.

Moreover, the outdoor survival garment is a bulky and weighty construction (Fig. 3) because it comprises a plurality of layers and means (heating element layer 25, nutriment layer 26, gas receptacle 22 (col. 3, lines 28-36), illuminate fiber optic container 39 comprising light emitting diode leads 37 and rechargeable battery 610 (col. 4, lines 4-7 and 54). Therefore, there is a high risk of accidental opening of velcro fastener 19 because the bulkiness and relatively

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high weight will not only limit freedom of swimming movements but, when the velcro fastener 19 is partly opened by (extensive) swimming movements, the relatively high weight of the garment of Kea will in turn provide for a further, eventually complete opening of velcro 19. Thus, there is no security against accidental opening.

As discussed above, Buck and Nedbal also fail to teach or suggest a zip with a secure cover. Nor do they suggest how to transform the bulky and weighty construction of Kea into a swimming aid device, as presently claimed.

The dependent claims are patentable for at least the same reasons as discussed above.

Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of any combination of Kea, Buck and Nedbal.

Claims 19-21, 30 and 31 are rejected under 35 U.S.C. §103(a) over Jones in view of Buck and Nedbal, and further in view of Samano. Jones, Buck and Nedbal are discussed above. Samano fails to make up for the deficiencies of Jones, Buck and Nedbal. Samano discloses a flag vest. It also fails to teach or suggest a secure cover 25 to cooperate with a zipper as the second releasable closure means and provide for protection against accidental opening of the second closure means. Further, it fails to teach or suggest the claimed cover or a size-variable element that can be adjusted to the body size and having a first, releasable closure means, whereby the variable body size adjustment can be set.

Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of Jones, Buck, Nedbal and Samano.

If for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, the Commissioner is hereby authorized and requested to charge Deposit Account No. 04-1105.

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In view of the discussion above, applicant respectfully submits that the pending application is in condition for allowance. An early reconsideration and notice of allowance are earnestly solicited.

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Respectfully submitted,

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Darstellung wird das Brust- und Rückenteil aus einem geschlossenzelligem Schaumstoff geschnitten und direkt mit dem Brustgurt verbunden.

- Fig. 5 zeigt eine besondere Ausführung der Schwimmhilfsvorrichtung nach dem Prinzip der ersten Ausführungsform der Erfindung im horizontalen Querschnitt, wobei ergänzend zu dem ersten Verschlußmittel zur variablen Körpergrößeneinstellung ein zusätzliches Verschlußmittel auf dem ersten Verschlußmittel unter Einschluß eines Auftriebslements vorgesehen ist.
- Fig. 6a bis 6f zeigen Einzeileile der Schwimmhilfsvorrichtung mit Trägergurt gemäß der ersten Ausführungsform der Erfindung, wobei Fig. 6a die Außenansicht des Trägergurtes und Fig. 6b die Ansicht der Körperseite des Trägergurtes zeigen. Fig. 6c und 6d zeigen das Brustkissen, wobei Fig. 6c die Außenansicht (die körperabgewandte Seite) und Fig. 6d die Innenansicht (die körperzugewandte Seite) zeigen. Fig. 6e und 6f zeigen das Rückenkissen, wobei Fig. 6e die Außenansicht und Fig. 6f die Ansicht der Körperseite zeigen. Bei dieser Darstellung sind alle Teile aus Textilstoff genäht und mit Auftriebsmaterial gefüllt.
- Figuren 7a und Figur 7b zeigen eine westenförmige Schwimmhilfsvorrichtung gemäß der Erfindung in einer Ausführung für Kinder, wobei Fig. 7a die Ansicht von vorn und Fig. 7b die Ansicht von hinten zeigen. Bei dieser Darstellung ist die Schwimmhilfsvorrichtung aus Textilstoff genäht und mit geschlossenzelligem Schaumplatten gefüllt. Bei dieser Ausführungsform sind alle Laschen aus Sicherheitsgründen nach hinten zu schließen und der Reißverschlußgriff ist mit einer Abdeckung gesichert.
- Fig. 8a und Fig. 8b eine westenförmige Schwimmhilfsvorrichtung gemäß der Erfindung in einer Ausführung für Erwachsene, wobei Fig. 8a die Vorderansicht und Fig. 8b die Rückenansicht zeigen. Bei dieser Darstellung ist die Schwimmhilfsvorrichtung aus Textilstoff genäht und mit geschlossenzelligen Schaumplatten gefüllt.

Bezugszeichenliste

- 1 Tränergurt
- 2 Brustkissen
- 3 Rückenkissen
- 4 Zusatzsicherung für Antriebsselement auf dem Tränergurt
- 5 Bandschlaufen zum aufziehen auf den Tränergurt
- 6 Auftriebsselement vorn
- 7 Auftriebsselement Rücken
- 8 Befestigung für Antriebsselement mit Tränergurt, Vorderseite
- 9 Befestigung für Auftriebsselement, Rückseite
- 10 Seitenlasche zur Anpassung an Körpergröße
- 11 Schulterlasche zur Anpassung des Armausschnittes
- 12 Absteppung
- 13 Aufhänger
- 14 Reißverschluß
- 15 Seitenlasche mit Haken- Klettband
- 16 Schulterlasche mit Haken- Klettband
- 17 Seitenlasche mit Flausch- Klettband
- 18 Schulterlasche mit Flausch- Klettband
- 19 Klettband zur Auftriebsselementsicherung
- 20 Tränergurtverschluß mit Haken- Klettband
- 21 Tränergurtverschluß mit Flausch- Klettband
- 22 Klettband zur Befestigung des Auftriebsselementes
- 23 Klettband zur Befestigung mit dem Tränergurt
- 24 Klettband für zusätzliche Sicherung des Auftriebsselementes
- 25 Reißverschlußsicherung

weitere zweite, wiederverschließbare Verschlusmittel (14) mit einer Abdeckung (25) gesichert wird.

5. Schwimmhilfsvorrichtung gemäß einem der Ansprüche 2 bis 4, dadurch gekennzeichnet, daß die Weste einen variabel einstellbaren Armausschnitt aufweist, wobei zu der variablen Einstellung an dem Rückenteil und an dem Vorderteil im oberen Bereich ein einstellbarer wiederverschließbarer Verschuß, vorzugsweise in Form von Schulterlasche mit Klettband (11, 16, 18), vorgesehen ist.
6. Schwimmhilfsvorrichtung gemäß Anspruch 1, dadurch gekennzeichnet, daß das sich an die Körpergröße einstellbare, größenvariable Teil als Tränergurt (1) ausgebildet ist.
7. Schwimmhilfsvorrichtung gemäß einem der vorangehenden Ansprüche, dadurch gekennzeichnet, daß zur Regulierung des Auftriebs mindestens eines der folgenden Ausgestaltungen des mindestens einen Auftriebselements vorgesehen ist:
 - das mindestens eine Auftriebselement ist in das größenvariable Teil (1;100) fest integriert;
 - auf Vorder- und Rückenteilen des größenvariablen Teils (1;100) sind, ggf. weitere, Auftriebselemente, z.B. Kissen gefüllt mit Auftriebsmaterial oder Platten aus geschlossenzelligem Schaumstoff, vorgesehen, oder Vorder- und/oder Rückenteile des größenvariablen Teils (1;100) sind selbst offenbar und wiederverschließbar ausgebildet, derart, daß Auftriebsmaterial zu entnehmen oder zuzufügen ist;
 - neben einem Auftriebselement (3;7) an der Rückenseite ist ein Auftriebselement (2;6) an der Brustseite befestigbar.
8. Schwimmhilfsvorrichtung gemäß Anspruch 6, dadurch gekennzeichnet, daß auf der Verschußstelle (20,21) des Tränergurtes ein Auftriebselement (6) mit Klettband (23) oder einem anderen wiederverschließbaren Verschlusmittel derart befestigbar ist, so daß der Tränergurt (1) als Gesamtsystem ein weiteres mal verschlossen (4, 19, 24) und gegen ein unbeabsichtigtes Öffnen gesichert ist.